IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2006

Coram

The Hon'ble Mr. Justice V.Ramasubramanian

Writ Petition No.48932 of 2006
and M.P.No.2 of 2006

1. R. Surveshwaran
2. V. Kannadasan
3. P. Anbarasi
4. C. Ramesh Babu
5. L. Saraswathy
6. V. Rameela
7. S. Kathiravan
8. S. Santha Kumari
9. R. Renuka
10. B. Radhakrishnan
11. M. Shanthi
12. K. Mohan Ramesh Kumar
13. L. Govindaraji
14. S. Glory Pushpathai
15. R. Sivan
16. P. Suriya Prabha
17. M. Subha
18. P. Saranya
19. S. Subramanian
20. G. Sivan
21. G. Lakshmaiyan
22. S. Prabhu
23. A. Sundar Raj
24. M. Priya
25. N. Sujatha Selvi Jegan
26. C. Pathma
27. M. Sundari Devi
28. M. Brindha
29. S. Chandraleka
30. A. Virgin Jase
31. V. Radhika
32. M. Mythily
33. S. Veera Pandian
34. C. Thamarai Selvi
35. P. Latha
36. D. Rathi

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37. P. Selva Ganeshan
38. J. Indra
39. S. Thiruvenkadam
40. C. Alagesan
41. V. Sundari
42. K. Muthuraj
43. D. Chandra Guptha Mouriya
44. K. Gayathri
45. R. Sriramulu
46. M. Suriyakala
47. P. Dayalan
48. K. Chandra
49. N. Sivanathan
50. R. Kumar
51. K. Arul Ramachandran
52. K. Chithra
53. M. Jenifer Rani
54. P. Thulasiyammal
55. O.K. Senthil Kumar
56. S. Victoria Jeyanthi
57. G. Veerangan
58. N. Alagammal
59. P. Don Vargeese
60. M. Sathiya Devi
61. K. Komala Devi
62. A. Sivasankari
63. R. Kannammal
64. S.K. Selvi
65. S. Vanitha
66. M. Kalaimathi
67. S. Sudha
68. S. Packiathai
69. G. Suganya
70. V. Selvi
71. M. Sengathir
72. M. Valliammal
73. V. Rajaguru
74. P. Tamilselvi
75. V. Geetha
76. M. Anitha
77. R. Muthu Krishnaveni
78. J. Ananthi
79. R. Florance Jenifer Mary
80. V. Jeyalakshmi
81. P. Mallika
82. S. Porkodi
83. V. Ranganayaki
84. V. Sivakumar
85. J. Suresh

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86. S. Tamil Selvi
87. M. Munusami
88. K.S. Madhaiyan
89. S. Dhanabhakkiyam
90. G. Kumar
91. V. Muthulakshmi
92. S. Rajathi
93. M. Ramachandran
94. M. Sethu Mathavi
95. T. Karthikai Selvi
96. M. Vinitha
97. C.K. Gomathi
98. P. Rajeswari
99. K. Murugalakshmi
100. M. Adhilakshmi .. Petitioners

Vs.

1. The National Council for Teacher Education,
   Southern Regional Committee,
   rep. by its Regional Director,
   C S D Building, H M T Post,
   Bangalore 560 031.

2. The Director of Government Examinations,
   Chennai 600 006.

3. The Director of Teacher's Education,
   Research and Training,
   Chennai 600 006.

4. St. Mary's Teachers Training Institute,
   rep. by its Secretary and Corespondent
   Dr. M. Gnanaprakasam,
   St. Mary's Nagar - Kuthukkalvalasai,
   Tenkasi 627 803, Tirunelveli District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the first respondent to regularise the admissions of the petitioners for the D.T.E. Course during the academic years 2004-2005 and 2005-2006 by granting necessary recognition. Within such time as may be stipulated by this Court.

For Petitioners : Mr. AR.L.Sundaresan Senior Advocate for
Mr. Sathish Parasaran
For Respondents : Mr. S. Udayakumar,
Standing Counsel NCTE for R1
Mr. M. Sekar, Spl. Govt. Pleader(Edn)
for R2 and R3

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O R D E R

The petitioners are all students admitted to the St. Mary's Teachers Training Institute, Tenkasi, Tirunelveli District, to the first year of the Diploma in Teacher Training Education Course. While the petitioners 1 to 50 were admitted by the institution for the academic year 2004-2005, the petitioners 51 to 100 were admitted for the academic year 2005-2006 for the two year D.T.Ed. Course.

2. The fourth respondent institute had recognition for offering a two year diploma course in Teacher Training, from the academic year 2004-2005. The recognition order dated 15.02.2005 issued by National Council for Teacher Education (hereinafter referred to as "NCTE"), was only for the permitted intake of 50 students.

3. The institute requested for an intake of 100 students for the academic years 2004-2005 and 2005-2006, but by an order dated 14.02.2006, the NCTE advised the fourth respondent institute that the additional intake of 50 students could be considered only for the academic session 2006-2007.

4. The institution filed an appeal to the appellate authority under the NCTE Act and the appellate authority passed an order dated 17.05.2006 accepting the appeal. But, unfortunately, the appellate authority did not pass a clear cut order. The operative portion of the appellate authority's order dated 17.05.2006 is as follows:

> "Now therefore, the Council hereby accepts the appeal of the institution and directs SRC accordingly."

5. The Southern Regional Committee of the NCTE did not pass any order in pursuance of the appellate authority's order. Therefore, the institution filed a writ petition in W.P.No.35448 of 2006 praying for a direction to the Southern Regional Committee to implement the order of the appellate authority dated 17.05.2006. By an order dated 25.09.2006, this Court disposed of the said writ petition with a direction to the Southern Regional Committee of NCTE, to consider the direction of the appellate authority with regard to the academic year 2006-2007 alone.

6. Since the order of the learned Judge dated 25.09.2006 in Writ Petition No.35448 of 2006 restricted the benefit of additional intake only to the academic year 2006-2007, the fourth respondent institution filed an appeal. The said appeal in W.A.No.1328 of 2006 was dismissed by the First Bench by an order dated 16.11.2006, clearly holding that it is not possible to grant recognition for the academic session 2004-2005 with retrospective effect. The operative portion of the order of the Division Bench reads as follows:

> "The appellate authority passed an order, granting additional intake of 50 students. By the time the order came to be passed, the academic session 2004-2005

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was over. In these circumstances, it is not possible to accept the prayer of the appellant to grant recognition for the academic session 2004-2005 with retrospective effect and there is no scope for interference with the order of the learned single Judge. The writ appeal is, therefore, dismissed."

7. After the fourth respondent institution lost its battle to gain retrospective recognition for the additional intake, with effect from 2004-2005, the students have now come up before this Court seeking permission to sit for the examinations.

8. I have heard Mr. AR.L. Sundaresan, learned senior counsel appearing for the petitioners, Mr. S. Udayakumar, learned standing counsel for the first respondent and Mr. M. Sekar, learned Special Government Pleader (Education) for respondents 2 and 3.

9. What the petitioners seek to achieve in this writ petition is actually what the fourth respondent institution could not achieve in their litigation. The application of the fourth respondent for an additional intake from the year 2004-2005 was rejected by the order of Southern Regional Committee of NCTE dated 14.02.2006. Though the appeal was accepted by the appellate authority, the order dated 17.05.2006 of the appellate authority is very innocuous. As seen from the operative portion of the appellate authority's order, extracted above, there is no clear cut direction. In my considered view, the appellate authority has given room for all kinds of interpretation, by passing such a vague order. The order dated 17.05.2006 of the appellate authority is not only innocuous, but also reflects the utter lack of responsibility on their part in passing the order. The appellate authority did not consider that by the time the said order was passed, the academic year 2004-2005 had already expired.

10. It is only in view of the fact that the academic year 2004-2005 had already expired, the learned Judge directed the NCTE, by the order dated 25.09.2006 in W.P.No.35448 of 2006, to confine the recognition to 2006-2007. The Division Bench upheld the same by its order dated 16.11.2006 in W.A.No.1328 of 2006. Thus, the issue has actually attained finality with the order of the Division Bench dated 16.11.2006.

11. The order of the Division Bench cannot be upset, in an indirect manner, by permitting the students to take the examinations. As a matter of fact, the students are not entitled to claim equity. Under the NCTE Regulations 2002, an application for recognition to start a Teacher Training Institute, including an application for additional intake, should be made in the form given in Appendix-1A. The application in Appendix-1A form should be accompanied by a list of documents prescribed in Appendix-1B and the title opinion by a lawyer under Appendix-1C and an undertaking on a non judicial stamp paper as per form at Appendix-1D.

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12. The Appendix-1D form, in which an undertaking is to be executed, contains a clause in Serial No.4, which reads as follows:

> "That admission to the course will be made only after recognition is granted by the concerned Regional Committee of the NCTE."

13. Interestingly, Regulation 3 of the NCTE Regulations 2002, makes it mandatory to file such an undertaking as per Appendix-1D form, even for an additional intake. Thus, it is clear that the fourth respondent institution, which had executed such an undertaking in Appendix-1D form, on a non judicial stamp paper, should not have admitted the students, in anticipation of favourable order by the appellate authority, or by this Court. In other words, the admissions made by the fourth respondent institution in violation of such an undertaking, is only illegal and such admissions cannot confer any right upon the students to take the examinations.

14. The NCTE Act 1993 itself has been amended recently and Section 17 (A) has been incorporated, clearly prohibiting admission of students before the grant of recognition. Thus, the undertaking given under Appendix-1D form has now virtually been transported into the statute itself.

15. The Supreme Court has repeatedly warned against permitting students of unrecognised institutions, to take the examinations. In order to get over the law laid down by the Supreme Court, an argument was advanced, to the effect that the petitioners cannot be equated to students of an unrecognised institution. It was contended that the fourth respondent institution had recognition, though not for the additional intake.

16. In my considered view, such a distinction does not appear to be available to the petitioners. An institution may have recognition (i) to offer a particular course, (ii) for a particular academic year and (iii) with a permitted intake. If such institution admits students (i) for any other course, (ii) for any other academic year and (iii) in excess of the permitted intake, such admissions are equivalent to admissions to unrecognised institutions only. Under such circumstances, I find no merits in the writ petition and the writ petition is dismissed. No costs. Consequently, M.P.No.2 of 2006 is also dismissed.

Sd/-

Asst. Registrar.

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Sub Asst. Registrar.

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ATR

To

1. The Regional Director,
   National Council for Teacher Education,
   Southern Regional Committee,
   C S D Building, H M T Post,
   Bangalore 560 031.

2. The Director of Government Examinations,
   Chennai 600 006.

3. The Director of Teacher's Education,
   Research and Training,
   Chennai 600 006.

+ 1 CC To Mr.Sathish Parasaran Advocate SR NO.63892

+ 1 CC To Mr.S.Udhayakumar SCGSC, SR NO.63836

W.P.No.48932 of 2006

JRG (CO)
DCP/3.1.07

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